

AMENDED IN SENATE AUGUST 28, 2007
AMENDED IN SENATE AUGUST 20, 2007
AMENDED IN ASSEMBLY MAY 24, 2007
AMENDED IN ASSEMBLY APRIL 10, 2007
AMENDED IN ASSEMBLY MARCH 22, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 105

**Introduced by Assembly Member Lieu
(Coauthor: Assembly Member Emmerson)**

January 3, 2007

An act to amend Sections 22702, 22705, and 22706 of the Business and Professions Code, relating to tanning facilities.

LEGISLATIVE COUNSEL’S DIGEST

AB 105, as amended, Lieu. Tanning facilities.

Existing law, the Filante Tanning Facility Act of 1988, the violation of which is a crime, provides for regulation of tanning facilities by the Department of Consumer Affairs. The act requires a tanning facility to provide a written warning statement to customers and to post certain warning signs in areas where a tanning device, as defined, is used. The act also prohibits a tanning facility from claiming or distributing promotional materials that claim that using a tanning device is safe or free from risk and requires a tanning facility to, among other things, use a timer, as specified.

This bill would instead apply those provisions to an ultraviolet tanning device, as specified, and would define the term “ultraviolet tanning

device.” The bill would require that the written warning statement include specified additional warnings and be given to a customer before the customer uses an ultraviolet tanning device. The bill would require the warning signs to be posted conspicuously and in an area where an ultraviolet tanning device is used that is readily visible to a person using an ultraviolet tanning device. The bill would also authorize a tanning facility to include in that warning sign a statement regarding spray on tans and other sunless tanning products, as specified. The bill would prohibit a tanning facility from claiming that indoor tanning has any known health benefits. The bill would require a tanning facility timer to be remotely located so that customers could not set their own exposure time.

The Filante Tanning Facility Act of 1988 also prohibits a person under 14 years of age from using a tanning device and requires a person between 14 and 18 years of age to provide the tanning facility with a specified statement signed by his or her parent or legal guardian *before using a tanning device*.

This bill would prohibit a person under 14 years of age from using an ultraviolet tanning device. The bill would also prohibit a tanning facility from allowing a person between 14 and 18 years of age ~~from using~~ *to use* an ultraviolet tanning device unless that person’s parent or legal guardian provides consent by appearing in person, as specified, and signing a specified form in the presence of the facility owner or employee. The bill would make that consent valid for 12 months and authorize *both its withdrawal and annual renewal, as specified*. The bill would also require that proof of age be provided, as specified.

By expanding the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 22702 of the Business and Professions
- 2 Code is amended to read:

22702. As used in this chapter:

(a) “Tanning facility” means any location, place, area, structure, or business that provides persons access to any tanning device.

(b) “Department” means the Department of Consumer Affairs.

(c) “Phototherapy device” means equipment that emits ultraviolet radiation used by a health care professional in the treatment of disease.

(d) “Tanning device” means an ultraviolet tanning device and any accompanying equipment, including, but not limited to, protective eyewear, timers, and handrails.

(e) “Ultraviolet tanning device” means equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers used for tanning of the skin, including, but not limited to, a sunlamp, tanning booth, or tanning bed.

SEC. 2. Section 22705 of the Business and Professions Code is amended to read:

22705. (a) A tanning facility shall give each customer, prior to the customer’s use of an ultraviolet tanning device, a written statement warning that:

(1) Not wearing the eye protection provided to the customer by the tanning center may cause damage to the eyes.

(2) Overexposure causes burns.

(3) Repeated exposure may cause premature aging of the skin and skin cancer.

(4) Abnormal skin sensitivity or burning may be caused by certain:

(A) Foods.

(B) Cosmetics.

(C) Medications, including, but not limited to, the following:

(i) Tranquilizers.

(ii) Diuretics.

(iii) Antibiotics.

(iv) High blood pressure medicines.

(v) Birth control pills.

(5) Any person taking a prescription or over-the-counter drug should consult a physician before using an ultraviolet tanning device.

(6) Any person with skin that burns easily should avoid an ultraviolet tanning device.

(7) Any person with a family history or past medical history of skin cancer should avoid an ultraviolet tanning device.

(b) A tanning facility shall conspicuously post a warning sign in any area where an ultraviolet tanning device is used that is readily visible to a person using an ultraviolet tanning device. The sign shall read as follows:

DANGER: ULTRAVIOLET RADIATION

1. Follow instructions.

2. Avoid too frequent or too lengthy exposure. As with natural sunlight, exposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause chronic sun damage characterized by wrinkling, dryness, fragility and bruising of the skin, and skin cancer.

3. Wear protective eyewear.

**FAILURE TO USE PROTECTIVE EYEWEAR
MAY RESULT IN SEVERE BURNS OR
LONG-TERM INJURY TO THE EYES.**

4. Ultraviolet radiation from sunlamps will aggravate the effects of the sun. Therefore, do not sunbathe before or after exposure to ultraviolet radiation.

5. Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women on birth control pills who use this product may develop discolored skin.

**IF YOU DO NOT TAN IN THE SUN YOU WILL
NOT TAN FROM USE OF THIS DEVICE.**

(c) A tanning facility may include in the warning sign described in subdivision (b) the following statement: "Spray on tans and other sunless tanning products are not subject to the same effects as ultraviolet tanning devices."

(d) A tanning facility shall not claim, or distribute promotional materials that claim, that using an ultraviolet tanning device is safe

1 or free from risk or that indoor tanning has any known health
2 benefits.

3 (e) The liability of a tanning facility operator or a manufacturer
4 of an ultraviolet tanning device is not changed by giving the
5 warning under this section.

6 SEC. 3. Section 22706 of the Business and Professions Code
7 is amended to read:

8 22706. (a) A tanning facility shall:

9 (1) Have an operator present during operating hours who is
10 sufficiently knowledgeable in the correct operation of the tanning
11 devices used at the facility so that he or she is able to inform and
12 assist each customer in the proper use of the tanning devices.

13 (2) Before each use of an ultraviolet tanning device, provide
14 each customer with properly sanitized protective eyewear that
15 protects the eye from ultraviolet radiation and allows adequate
16 vision to maintain balance; and not allow a person to use an
17 ultraviolet tanning device if that person does not use the protective
18 eyewear.

19 (3) Show each customer how to use suitable physical aids, such
20 as handrails and markings on the floor, to maintain proper exposure
21 distance as recommended by the manufacturer.

22 (4) Use a timer on an ultraviolet tanning device that has an
23 accuracy of plus or minus 10 percent of any selected timer interval.
24 The timer shall also be remotely located so that customers cannot
25 set their own exposure time.

26 (5) Limit each customer using an ultraviolet tanning device to
27 the maximum exposure time as recommended by the manufacturer.

28 (6) Control the interior temperature of a tanning facility so that
29 it does not exceed 100 degrees Fahrenheit.

30 (b) (1) Every person who uses a tanning facility shall sign a
31 written statement acknowledging that he or she has read and
32 understood the warnings before using the device; and agrees to
33 use the protective eyewear that the tanning facility provides. The
34 statement of acknowledgment shall be retained by the tanning
35 facility until the end of the calendar year at which time each person
36 who is a current customer of the facility shall be required to renew
37 that acknowledgment.

38 (2) Whenever using a tanning device a person shall use the
39 protective eyewear that the tanning facility provides.

1 (3) Persons under 14 years of age are prohibited from using an
2 ultraviolet tanning device.

3 (4) A tanning facility shall not allow a person between 14 and
4 18 years of age to use an ultraviolet tanning device unless that
5 person's parent or legal guardian provides consent. For purposes
6 of this paragraph, "consent" means that the parent or legal guardian
7 appears in person at the minor's initial use of an ultraviolet tanning
8 device within a consecutive 12-month period and signs a written
9 consent form in the presence of the owner or an employee of the
10 facility. *The minor's parent or legal guardian may withdraw this*
11 *consent at any time.* ~~This~~ *Unless so withdrawn, this* consent shall
12 be valid for 12 months from the date the written consent form is
13 signed and may be renewed annually in accordance with this
14 paragraph. The written consent form required by this paragraph
15 shall state both of the following:

16 ~~(A) The number of times the minor may use an ultraviolet~~
17 ~~tanning device at the facility within the next 12 months.~~

18 ~~(B) That~~ *that* the parent or legal guardian has read and
19 understood the warnings given by the tanning facility, consents to
20 the minor's use of an ultraviolet tanning device, and agrees that
21 the minor will use the protective eyewear that the tanning facility
22 provides.

23 (5) Proof of age shall be satisfied with a driver's license or other
24 government issued identification containing the date of birth and
25 a photograph of the individual.

26 SEC. 4. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.